

RE: Support Bills that seek to Ban Microbeads, with Amendments:

- Proposed Bill No. 6081, [An Act Regulating The Manufacturing And Sale Of Synthetic Plastic Microbeads.](#)
- Proposed Bill No. 5403, [Act Prohibiting The Sale Of Personal Cosmetic Products That Contain Microbeads.](#)
- Proposed Bill No. 5286, [An Act to prohibit the import and sale of personal cosmetic products that contain microbeads.](#)
- Proposed Bill No. 5727, [An Act to ban microbeads from personal care products sold in the state.](#)

March 10, 2015

Members of the Environment Committee:

Surfrider Foundation is an environmental non-profit organization that is dedicated to the protection and enjoyment of the world's oceans, waves and beaches through education, research, conservation and activism. Surfrider engages in many campaigns and programs, including our Rise Above Plastics Program, which aims to keep plastic pollution out of the ocean.

We submit this testimony today in support of bills aiming to ban plastic microbeads on behalf of the Surfrider Foundation Connecticut Chapter and its thousands of members, volunteers and supporters.

Many consumer products sold in the United States, such as facial scrubs, shampoos, soaps, toothpastes, and deodorant, contain microplastic particles as abrasives and exfoliants. These particles are made of Polyethylene (PE), Polypropylene (PP), Polyethylene Terephthalate (PET), Polymethyl methacrylate (PMMA) and Nylon. In most cases, microplastic particles are intended to be washed down the drain after use. However, many wastewater treatment facilities are incapable of capturing them, as they are too small, do not biodegrade, and float. A number of studies have shown that microplastics simply pass through wastewater treatment facilities; and in some cases, wastewater is not treated at all, as when, during heavy storm events, wastewater overflow is sometimes released directly into waterways. As a result, microplastics are entering our waterways, and ultimately, polluting our oceans. Microplastic particles are found in all oceanic gyres, bays, gulfs and seas worldwide.

This is cause for alarm for many reasons. First, plastic does not biodegrade into elements or compounds commonly found in nature like other organic materials, but instead, photodegrades into smaller pieces of plastic causing land and water pollution that is virtually impossible to remediate. Second, microplastic debris absorbs toxic, environmentally persistent chemicals such as DDT, PCBs, PAHs, and flame retardants found in our waterways. In 2011, the National Oceanic Atmospheric Association found that plastic debris accumulates pollutants such as

PCBs up to 100,000 to 1,000,000 times the levels found in seawater.¹ Thus, aside from the negative effects of plastic consumption by marine life, such as intestinal clogging and starvation, fish can become contaminated by the plastic's absorbed toxins, which bioaccumulate up the food chain negatively impacting animals who feed on fish, including some humans. These toxins pose serious threats to humans and wildlife that consume them.

The below are considerations with respect to microplastics, which Surfrider Foundation believes are critical to a bill seeking to ban microbeads' efficacy:

- The bill must prohibit the sale or promotion of any products containing plastic microbeads/microplastic.
- There must not be any exemptions for compliance deadline extension(s) for "over the counter drugs" (as regulated by the Federal Code of Regulations) or the like. Any such exception creates an industry loophole, rendering the bill futile, as the number of over the counter drugs is incredibly broad, and contains numerous types of products such as fluoride and whitening toothpastes, acne scrubs, moisturizing cleansers, and wrinkle creams, which are the kinds of products which typically utilize microplastics. There should be no exceptions for any consumer products, as there are *already viable safer, non-polluting alternatives, including natural apricot shells and cocoa beans*, which can be utilized instead.
- The prohibition on sales and promotion of products with microplastics/microbeads should become effective sooner rather than later. As illustrated above, the problems posed by marine plastics are huge and dire, and delay is dangerous to public health and wildlife.
- Any prohibition must be broad enough to apply to the entire landscape of personal care products, which use or could use microplastics/microbeads.
- There **must not be an exemption for "biodegradable" plastics**, as such products do not actually exist. Plastics claimed to be biodegradable tend to not actually biodegrade into benign substances, but to break down into smaller pieces that exacerbate the plastic pollution problem. Further, as with traditional plastics, "biodegradable" plastics contain chemical additives that may be unknown and additionally dangerous. Any such exemption creates a loophole for the microplastics-using industry, which will render any attempts to mitigate the foregoing problems utterly futile.
- The bill must contain enforcement mechanisms and effective deterrents to violation. For example, civil penalties up to \$2,500 per day, per violation.

Model language regarding microbeads is provided in the draft bill, attached hereto as Exhibit A.

¹ National Oceanic and Atmospheric Association, "What We Know About: Plastic Marine Debris." Sept. 2011, available at: http://marinedebris.noaa.gov/sites/default/files/Gen_Plastic-hi_9-20-11_0.pdf

In Connecticut, the ocean and all of our magnificent waterways are part of who we are. Our quality of life and the livelihoods of many residents depend upon clean water. Our economy is fundamentally dependent on coastal industries such as tourism and recreation, which generates \$1.5-billion (40.5%) of our state's ocean GDP.² Microplastic pollution jeopardizes Connecticut's coastal industries, environment, and quality of life.

Surfrider Foundation implores you to make the amendments recommended herein to protect our waters from microbeads pollution and keep our State's precious natural resources safe for generations to come.

Sincerely,



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² The [Coastal and Ocean Economic Summaries of the Coastal States](#) that provides a two page ocean and coastal economic summary reports for each of the 30 coastal US states with data complementing the CBE and NOEP's latest *State of the U.S. Ocean and Coastal Economies - 2014* report.

Exhibit A.

Microplastics Ban

§ XXXX is enacted to read:

A. Plastic microbeads

- a. Definitions. As used in this chapter, the following terms have the following meanings:
- i. "Person" means an individual, business, or other entity.
 - ii. "Personal care product" means an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced to, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and an article intended for use as a component of such an article.
 - iii. "Plastic microbead" means a plastic particle measuring five millimeters or less in size in every dimension, intentionally added to a product, and which does not include any natural substance occurring in and generated by the natural environment such as walnut shells, cocoa beans, apricot hulls, sand, clay, or beeswax.

b. Prohibitions

A person shall not, after December 31, 2015, manufacture, sell, accept for sale, or offer for promotional purposes in this state a personal care product that contains plastic microbeads.

c. Enforcement & Penalties

- i. A person who violates Section (b) is liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation in addition to any other penalty established by law. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.
- ii. In assessing the amount of a civil penalty for a violation of this section, the court shall consider all of the following:
 1. The nature and extent of the violation.
 2. The number of, and severity of, the violations.
 3. The economic effect of the penalty on the person.
 4. Whether the person took good faith measures to comply with this section and the time these measures were taken.
 5. The deterrent effect that the imposition of the penalty would have on both the person and the regulated community as a whole.

6. Any other factor that justice may require.
 - iii. Actions pursuant to this section may be brought by the Attorney General in the name of the people of the state, by a district attorney, by a city attorney of a city, or, with the consent of the district attorney, by a city prosecutor in a city or city and county having a full-time city prosecutor, or as provided in subdivision (iv).
 - iv. Actions pursuant to this section may be brought by a person in the public interest if both of the following requirements are met:
 1. The private action is commenced more than 60 days from the date that the person has given notice of an alleged violation that is the subject of the private action to the Attorney General and the district attorney, city attorney, or prosecutor in whose jurisdiction the violation is alleged to have occurred, and to the alleged violator.
 2. Neither the Attorney General, a district attorney, a city attorney, nor a prosecutor has commenced and is diligently prosecuting an action against the violation.
 - v. The court, in issuing any final order in any action brought pursuant to this section, shall award costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, unless the court determines the award is inappropriate.
 - vi. The Department of [legislators indicate appropriate authority] shall administer and implement this section. The [Department] may adopt and modify regulations as necessary to implement and further the purposes of this section.
- d. Plastic Pollution Fund
- i. The Plastic Pollution Fund is hereby established in the State Treasury. The [department] may expend the funds in the Plastic Pollution Fund, upon appropriation by the Legislature, to implement and administer this chapter by directly expending those funds, by transferring those funds to other state agencies, or by providing grants to local governments or other entities deemed eligible by the department, including, but not limited to, nongovernmental organizations.
 - ii. The [department] may expend the funds in the Plastic Pollution Fund, upon appropriation by the Legislature, to implement and administer this chapter by directly expending those funds, by transferring those funds to other state agencies, or by providing grants to local governments or other entities deemed eligible by

the department, including, but not limited to, nongovernmental organizations.

- iii. In addition to any other moneys that may be deposited in the Plastic Pollution Fund, all of the following amounts shall be deposited in the fund: (1) Fifty percent of all civil penalties collected pursuant to this Section, and (2) Any interest earned upon the money deposited into the Plastic Pollution Fund. The remaining fifty percent of all civil penalties collected shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the enforcement action, or in the case of an action brought by a person under subdivision herein, to that person.